

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SAMUEL R. JONES

Plaintiff,

CASE NO. 15-12527

HONORABLE GEORGE CARAM STEEH

v.

WAYNE COUNTY JAIL, et al.,

Defendants.

**ORDER VACATING ORDER TO SHOW CAUSE (DOC. 27)
AND REJECTING REPORT AND RECOMMENDATION (DOC. 25)**

The instant action is a civil rights case against the Wayne County Jail and several employees of the Wayne County Jail and/or Sheriff. When Plaintiff filed his complaint, Plaintiff was an inmate at the Wayne County Jail. Several documents mailed by the Court to Plaintiff at his Wayne County Jail address were returned as undeliverable. Accordingly, Magistrate Judge Elizabeth A. Stafford issued a report and recommendation ("R&R") recommending that the instant action be dismissed for failure to prosecute. (Doc. 25). As the Magistrate Judge explained in her R&R, the Court had given Plaintiff repeated notice that it was his obligation to notify the Court if his address were to change, yet Plaintiff had apparently failed to do so. (See Docs. 2, 23).

The Court reviewed Plaintiff's incarceration records and determined that Plaintiff had probably been transferred to the Michigan Department of Corrections ("MDOC"). Although it was clearly Plaintiff's responsibility to inform the Court of his address change, the Court nonetheless concluded that it was appropriate to give Plaintiff one

more chance to explain his failure to prosecute. Accordingly, the Court took the Magistrate Judge's R&R under advisement and issued an order to show cause why the instant action should not be dismissed. (Doc. 27). This order was mailed to Plaintiff at what was believed to be Plaintiff's new address at the MDOC's St. Louis Correctional Facility.

Plaintiff subsequently filed a "motion showing cause for a summary judgment by default." (Doc. 30). Plaintiff spends much of the "motion" providing further arguments in support of his previously filed motion for summary judgment. (See Doc. 13). In light of Plaintiff's *pro se* status, the Court will charitably interpret Plaintiff's "motion" as a response to the show-cause order. In the "motion," Plaintiff explains that he has been temporarily transferred to the St. Louis Correctional Facility. The Court finds that Plaintiff has adequately explained his previously failure to prosecute. Moreover, the Court finds that dismissal would be inappropriate, in light of the factors for dismissal for failure to prosecute set forth in *Knoll v. American Telephone and Telegraph Co.*, 176 F.3d 359, 363 (6th Cir. 1999). Most significantly, there is no indication that Plaintiff has acted wilfully or in bad faith, and there is no indication that the defendants have been prejudiced by Plaintiff's failure to prosecute.

Accordingly, the Court VACATES its order to show cause (Doc. 27). Furthermore, the Court REJECTS the R&R (Doc. 25). Plaintiff's complaint SHALL NOT be dismissed for failure to prosecute at this time. Furthermore, Plaintiff's address SHALL be updated to

Samuel R. Jones
MDOC# 364868
St. Louis Correctional Facility

8585 N. Croswell Road
St. Louis, MI 48880

The Court reiterates, however, that it is Plaintiff's responsibility to notify the Court IMMEDIATELY of any address changes, even if the changes are only temporary. The Court WILL NOT EXCUSE any more failures by Plaintiff to notify the Court of address changes.

IT IS SO ORDERED.

Dated: July 13, 2016

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on July 13, 2016, by electronic and/or ordinary mail and also on Samuel R. Jones #364868, St. Louis Correctional Facility, 8585 N. Croswell Road, St. Louis, MI 48880.

s/Barbara Radke
Deputy Clerk